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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,259	08/01/2003	James E. Van Hout	706549US1	5495

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EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,259

Applicant(s)

VAN HOUT ET AL.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-13, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 5-7 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/1/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This is the first Office Action corresponding to original filing. Claims 1-16 are active.

Information Disclosure Statement

Receipt is acknowledged of Information Disclosure Statement filed Aug 1, 2003, which has been reviewed by the Examiner.

Drawings

The drawings filed Aug 1, 2003 are objected by the examiner.
In Figs 9 and 11, the battery is hatched as being of metal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (Pat No 3,557,895) in view of Huang et al. (Pat No 6,343,015).

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The patent to Thomas shows a battery holder comprising top mount retainer (6) positioned on top of a battery and having lips (7), and an U-shaped rod (5) extending above the battery. The rod has no bending section.

The patent to Huang et al. shows a body (12) having a bending section to strength the body.

It would have been obvious to one skilled in the art at the time the invention was made to have formed the rod of Thomas with a bending section as shown by Huang et al. to increase the strength of the rod. The securing means for securing the rod can be one of many; for example a hook at one end and an eye at another end for receiving a fastener. Several of these claims make reference to particulars of the battery but the battery per se is not a positive element of the claimed invention, and consequently has no patentable significance.

Allowable Subject Matter

Claims 5-7 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: none of the art of record discloses a battery holder having a top mount retainer comprising a well, or longitudinal ribs.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DiFazio (4,520,887), Becker (4,535,863), Johnson (5,377,947) show battery holders. Ching shows a battery holder having a U-shaped strap extending above the battery. Saneinejad et al. shows the use of bending element to increase a spring force.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner **Ramírez** at telephone number (703) 308-0748. The examiner can be normally reached on Monday-Thursday and alternate Fridays.

The fax numbers for this Group are (703) 872-9306 (official papers), and (703) 308-3519 (unofficial papers).

Any inquiry of general nature relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

A shortened period for response to this Office Action expires **THREE MONTHS** from the mailing date of this action.

R.O.RAMIREZ
May 5, 2004


RAMON O. RAMIREZ
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600
ART UNIT 3632